

## Department of Veterans Affairs

## §3.215

of change of status which would result in a reduction or discontinuance of benefits to that person will be accepted, in the absence of contradictory information. This includes:

(1) *Veteran*. A statement by the veteran setting forth the month and year of death of a spouse, child, or dependent parent.

(2) *Surviving spouse*. A statement by the surviving spouse or remarried surviving spouse setting forth the month and year of remarriage and any change of name. (An award for a child or children who are otherwise entitled may be made to commence the day following the date of discontinuance of any payments to the surviving spouse.)

(3) *Child*. A statement by the veteran or surviving spouse (where an additional allowance is being paid to the veteran or surviving spouse for a child), or fiduciary, setting forth the month and year of the child's death, marriage, or discontinuance of school attendance. A similar statement by a child who is receiving payments direct will be accepted to establish the child's marriage or the discontinuance of school attendance. Where appropriate, the month and year of discontinuance of school attendance will be required in addition to the month and year of death or marriage of a child.

(Authority: 38 U.S.C. 501)

(4) *Parent*. A statement by a parent setting forth the month and year:

- (i) Of marriage or remarriage;
- (ii) When two parents or a parent and spouse ceased living together;
- (iii) When two parents or a parent and spouse resumed living together following a period of separation;
- (iv) Of divorce or death of a spouse.

(b) *Date not reported*. If the month and year of the event is not reported, the award will be reduced or discontinued, whichever is appropriate, effective date of last payment. The payee will be requested to furnish within 60 days from the date of request a statement setting forth the date of the event. Where payments are continued at a reduced rate, the award will be discontinued effective date of last payment if the required statement is not received within the 60-day period. Payments on a discontinued award may be

resumed, if otherwise in order, from the date of discontinuance if the necessary information is received within 1 year from the date of request; otherwise from the date of receipt of a new claim.

(c) *Contradictory information*. Where there is reason to believe that the event reported may have occurred at an earlier date, formal proof will be required.

CROSS REFERENCES: Abandoned claims. See §3.158. Change in status of dependents. See §3.651. Material change in income, net worth or change in status. See §3.660. Evidence of dependents and age. See §3.204.

[26 FR 1574, Feb. 24, 1961, as amended at 27 FR 1899, Feb. 28, 1962; 27 FR 11888, Dec. 1, 1962; 52 FR 19349, May 22, 1987; 61 FR 56626, Nov. 4, 1996]

### §3.214 Court decisions; unremarried surviving spouses.

Effective July 15, 1958, a decision rendered by a Federal court in an action to which the United States was a party holding that a surviving spouse of a veteran has not remarried will be followed in determining eligibility for pension, compensation or dependency and indemnity compensation.

CROSS REFERENCES: Abandoned claims. See §3.158. Change in status of dependents. See §3.651. Dependency, income and estate. See §3.660. Evidence of dependents and age. See §3.204.

[31 FR 2782, Feb. 16, 1966, as amended at 52 FR 19349, May 22, 1987]

### §3.215 Termination of marital relationship or conduct.

On or after January 1, 1971, benefits may be resumed to an unmarried surviving spouse upon filing of an application and submission of satisfactory evidence that the surviving spouse has ceased living with another person and holding himself or herself out openly to the public as that person's spouse or that the surviving spouse has terminated a relationship or conduct which had created an inference or presumption of remarriage or related to open or notorious adulterous cohabitation or similar conduct, if the relationship terminated prior to November 1, 1990. Such evidence may consist of, but is